

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

*Without objection*  
GRANTED: ☒ DENIED: ☐  
IT IS SO ORDERED  
*Donald C. Nugent*  
U.S. District Judge  
6/29/10

FRANK SOMRACK, et al

Plaintiffs,

v.

KENNAMETAL INC, et al

Defendants.

CASE NO. 1:10-CV-595

JUDGE DONALD C. NUGENT

**DEFENDANT KENNAMETAL INC.'S  
PARTIAL MOTION TO DISMISS AND  
MEMORANDUM IN SUPPORT**

FILED  
2010 JUN 29 PM 12:10  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

Now comes Defendant Kennametal Inc. ("Kennametal"), by and through counsel, and hereby respectfully moves this Court, pursuant to Federal Civil Rule 12(b)(6), to dismiss Count III of Plaintiffs Frank and Mary Somrack's (collectively "Plaintiffs") Complaint. As grounds for this Motion, more fully set forth in the accompanying Memorandum in Support, attached hereto and incorporated herein, Kennametal states as follows:

- Count III, an Ohio Consumer Sales Practices Act ("CSPA" or the "Act") claim pursuant to O.R.C. §1345.02 based on an allegedly unfair insurance premium and insurance plan, does not state a cognizable claim because the Act expressly excludes insurance transactions from its coverage and Ohio courts have consistently found that insurance policy disputes do not fall within the Act.

Thus, Plaintiffs can prove no set of facts entitling them to recovery on Count III and that claim must be dismissed.